

Serial No.: 09/415,632
Docket No.: 10655.7700

Remarks:

Applicants hereby reply to the Office Action mailed February 10, 2005 within the shortened three month statutory period for reply. Claims 1-12 were pending in the application, all of which were rejected by the Examiner. Applicants amend certain claims to simply clarify the antecedent basis, so the amendments are unrelated to patentability. Upon entry of the foregoing amendments, claims 1-12 are still pending in the application. No new matter is added by these amendments. Reconsideration is respectfully requested.

Rejections under 35 U.S.C. §102(e)

The Examiner rejects claims 1-10 under 35 U.S.C. § 102(e) as being anticipated by Simpson (U.S. Patent No. 6,070,153). Applicants respectfully traverse this rejection. The Simpson reference generally discloses a system for automatically investing a portion of previously paid interest charged amounts. The Simpson system is limited to depositing in an investment account a set percentage of an amount charged, cash advanced, or interest paid. Such investments are funded by the credit card or the issuer. The system may also add a set amount or percentage of the amount of a transaction to the billed transaction amount, which is funded by the cardholder. The cardholder may also pre-determine a monthly amount to be billed, which is deposited into an investment account. In all of these embodiments, the Simpson system is limited to depositing separately remitted funds into an IRA or investment account and reporting the results of the investments in a joint statement. Accordingly, Simpson does not disclose or suggest, "accepting a combined remittance from said user," "applying hierarchy rules to said combined remittance to determine a portion to be allocated to said at least one investment product," "applying payment hierarchy rules to said investment funds," nor "distributing said investment funds to said at least one investment product in accordance with said payment hierarchy rules" (emphasis added), as all similarly recited by independent claims 1 and 6.

Dependent claims 2-5 and 7-10 variously depend from independent claims 1 and 6, so dependent claims 2-5 and 7-10 are patentable for at least the same reasons for differentiating the independent claims from Simpson, as well as in view of their own respective features.

Rejections under 35 U.S.C. §103(a)

The Examiner next rejects claims 11-12 under 35 U.S.C. §103(a) as being unpatentable over Simpson (U.S. Patent No. 6,070,153) in view of Sandberg-Diment (U.S. Patent No. 5,826,245). Applicants respectfully traverse this rejection. Dependent claims 11-12 depend from

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independent claims 1 and 6, respectively, so dependent claims 11-12 are patentable for at least the same reasons for differentiating the independent claims from Simpson, as well as in view of their own respective features.

As stated in the previous Replies, the novelty of the presently claimed invention is highlighted by the fact that Applicants have spent many years negotiating with the Securities and Exchange Commission (SEC) to obtain an exemptive order for the acceptance of a combined remittance with additional funds in response to a periodic statement through a charge card billing system for distribution to a brokerage account because the procedure has never been previously implemented or disclosed. **The SEC stated that the presently claimed system did not satisfy the applicable securities law requirements; however, the SEC issued a highly unusual exemptive order for the first time for strong public policy reasons for certain embodiments of the present invention.** Further, the SEC did not require the Applicants to register as a broker-dealer because the system would not send the funds to the brokerage system until after receiving the combined remittance at the billing system and dividing the funds according to the hierarchy rules. Accordingly, the systems disclosed in the cited references **could not have previously offered a similar SEC-compliant service to the presently claimed invention.**

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as its invention and are allowable over the cited prior art. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. Applicants authorize and request that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: March 1, 2005By: Howard I. Sobelman
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